

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

ORIGINAL APPLICATION NO: 316/2009

This, the 7th day of May, 2010.

HON'BLE MR. M. KANTHAIAH, MEMBER (J)
HON'BLE DR. A. K. MISHRA, MEMBER (A)

Amrendra Malik, aged about 50 years, son of Late Shri C.S. Malik resident of E 1802, Rajajipuram, Lucknow.

Applicant

By Advocate Sri Praveen Kumar.

VERSUS

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. Finance Advisor and Chief Accounts Officer, Northern Railway, Baroda House, New Delhi.
3. Deputy Finance advisor and Chief Accounts Officer, Carriage & Wagon Workshop, Northern Railway, Alambagh, Lucknow.

Respondents

By Advocate Sri B.K. Shukla/Sri S. Verma.

ORDER

By Hon'ble Dr. A. K. Mishra, Member (A)

The applicant has challenged the order dated 28.7.2009 of Sr. AFA/Adm. in which the applicant was reverted to Group 'C' cadre in the Accounts Department and posted as Section Officer, Accounts.

2. In a disciplinary proceeding, the competent authority, the General Manager, Northern Railway imposed the penalty of reduction of the grade pay of the applicant from Rs. 5400 to Rs. 4800/- in the pay band of Rs.9300-34800/- till the time of his superannuation i.e. 30.09.2009. The short point which was canvassed before us, at the time of hearing, by the learned counsel for the applicant is that the disciplinary authority never



passed an explicit order for reducing the rank of the applicant from Group 'B' to Group 'C'. The impugned clarificatory order was beyond the scope of the authority who passed it and therefore should be struck down as an order of an incompetent authority. According to him, the grade pay of Rs. 4800/- is available in Group 'B' posts of other departments, particularly in the personnel department. Therefore, the applicant could have been adjusted against a post in the personnel department in Group 'B' rank till his superannuation. He conceded that the penalty imposed by the disciplinary authority in his order dated 9.7.2009 has been accepted by the applicant and it has acquired a finality.

3. The learned counsel for the respondents submits that the applicant belongs to Accounts Department and had to be adjusted in the Accounts Department. He took us through the gazette notification dated 23rd September, 2008 in which the grade pay of Rs. 4800/- is available against the post of Senior Section Officer/ Section Officer; both the posts being classified as Group 'C' posts. The Group 'B' post of Assistant Account Officer held by the applicant prior to imposition of the penalty has the grade pay of Rs. 5400/- in the pay band of Rs. 9300-34800/-. Now that he has accepted the penalty of reduction to the grade pay of Rs. 4800/-, he had to be posted against a post in the Accounts Department which carries the grade pay of Rs. 4800/- in the pay band of Rs. 9300-34800/-. Since only the

post of Sr. Section Officer/Section Officer in group 'C' in Accounts Department carries the grade pay of Rs. 4800/- in the aforesaid pay band, there was no alternative than to post him against such a post. The impugned order, in no way, has exceeded the limit fixed by the Disciplinary Authority in his penalty order. It has simply given effect to that order by placing him against an appropriate post in the Accounts Department which carried the grade pay of Rs. 4800/-

4. The respondents have clarified at paragraph 15 of the Counter Reply that grade pay of Rs. 4800 in the pay band of Rs. 9300 -34800/- is available in Group 'B' posts in departments other than the Accounts Department. But, since the applicant belongs to Accounts cadre, he could not have been posted to other departments. Therefore, he had to be adjusted in the available post carrying the same grade pay in the Accounts department and there was no irregularity by posting the applicant in the impugned order as Section Officer in the Accounts Department.

5. This fact has not been rebutted in the rejoinder reply filed by the applicant. He has repeated his previous averments that the post of Assistant Personnel Officer in Group 'B' rank has the grade pay of Rs. 4800/-, but that does not justify the plea that the applicant should be transferred to the personnel department particularly when he is borne in the Accounts Cadre.

6. In the circumstances, we find that the penalty order of the General Manager reducing the grade pay of the applicant to Rs. 4800/- had attained finality, in the absence of any appeal before the appellate authority or any challenge before the Tribunal. It is also true that the grade pay of Rs. 4800/- was available in the Accounts Department only against posts of Senior Section Officer/Section Officer classified as Group 'C' Posts. In order to implement the order of the Disciplinary Authority, the applicant had to be posted as Section Officer, Accounts carrying the grade pay of Rs. 4800/- in the pay band of Rs. 9300-34800/- although it involved reversion from group 'B' rank to Group 'C' and such a posting order was made to implement the order of the Disciplinary Authority. We find no infirmity in the order.

7. In the circumstances, we do not find any merit in this O.A., which is accordingly dismissed. No costs.

A. K. Mishra 07/05/10
 (Dr. A. K. Mishra)
 Member (A)

M. Kanthaiah
 (M. Kanthaiah)
 Member (J)
 30.04.10

Vidya